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Attorneys for Plaintiffs Arthur Sheridan and  
Barbara Sheridan

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Arthur Sheridan, an individual, and  
Barbara Sheridan, an individual,  
individually and on behalf of all those  
similarly situated,

Plaintiffs,

v.

iHEARTMEDIA, INC., a Delaware  
corporation

Defendant

) Case No.: 2:15-cv-4067

)  
) CLASS ACTION COMPLAINT FOR  
) VIOLATION OF CALIFORNIA  
) CIVIL CODE § 980(a)(2) AND  
) OTHER CALIFORNIA CAUSES OF  
) ACTION

) [DEMAND FOR JURY TRIAL]  
)  
)  
)

1 Plaintiffs, Arthur Sheridan and Barbara Sheridan individually and on behalf  
2 of all those similarly situated, complains of the Defendant, iHeartMedia, Inc., as  
3 follows:

#### 4 **INTRODUCTION**

5 1. This is a class action by Arthur Sheridan and Barbara Sheridan the  
6 owners of numerous master recordings of songs recorded before February 15, 1972  
7 (pre-1972 recordings), against iHeartMedia, Inc. (iHeartMedia).

8 2. iHeartMedia, Inc. operates an internet radio service (iHeartradio) that  
9 streams music and other programming to its paid subscribers via the internet which  
10 is listened to on computers, car radios, smart phones and other internet-connected  
11 devices.

12 3. iHeartradio also streams hundreds of traditional (terrestrial AM and  
13 FM) radio stations which it owns over the internet which anyone can listen to for  
14 free.

15 4. However, iHeartMedia, Inc. does not pay royalties to owners of sound  
16 recordings of musical performances for pre-1972 recordings as required by  
17 California law.

18 5. There are thousands of such recordings, and IHeartMedia is streaming  
19 them daily to its California listeners and has been doing so for years. Arthur  
20 Sheridan and Barbara Sheridan seek to represent the owners of all the pre-1972  
21 recordings in this action as class representatives for damages incurred by failing to  
22 pay them royalties and to enjoin further violations.

#### 23 **PARTIES, JURISDICTION AND VENUE**

24 6. Arthur Sheridan is a citizen of Illinois.

25 7. Barbara Sheridan is a citizen of Illinois.

26 8. iHeartMedia, Inc. is a Delaware corporation with its principal place of  
27 business in Texas.

1           9.     This Court has jurisdiction of the case pursuant to 28 U.S.C.  
2     §1332(d)(2) as there is diversity of citizenship and it is a class action demanding  
3     more than \$5 million in damages exclusive of interest and costs.

4           10.    The Court has specific jurisdiction over iHeartMedia, Inc. due to its  
5     mass-solicitation of California customers through its interactive website  
6     iheartradio.com. As part of this mass-solicitation, Defendant also advertises its  
7     streaming services, and offers its mobile device application (which can also be  
8     used to stream the songs at issue) through Los Angeles area stations KOST 103.5-  
9     FM, KFI 640-AM, KRRL 92.3-FM, KIIS 102.7-FM, KLAC 570-AM, KEIB 1150-  
10    AM, and ALT 98.7-FM websites and in on-air advertising.<sup>1</sup> Each of these stations  
11    are well known and popular in the Los Angeles area. The websites through which  
12    each aforesaid station distributes the mobile device application provide that they  
13    are "owned or managed by iHeartMedia, Inc." Arthur Sheridan and Barbara  
14    Sheridan believe Defendant has thousands of listeners in California and that  
15    iHeartMedia Inc. frequently violates California law to their detriment, as detailed  
16    below, by streaming recordings that they owns without paying them royalties.

17           11.    Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2)  
18    because iHeartMedia, Inc.'s violations of California law injuring Mr. Sheridan  
19    occurred in California and in this district.

20           **iHEARTMEDIA, INC. REGULARLY VIOLATES/EXPLOITS THE**  
21                                   **SHERIDANS'**  
22           **OWNERSHIP INTERESTS IN THEIR PRE-1972 RECORDINGS**

23           12.    Arthur Sheridan owns the master recordings of many pre-1972  
24    recordings, including, but not limited to, the following: "Slow Down Woman,"  
25    "The Mojo," "I Want my Baby," and "How Can I Leave" by J.B. Lemoir; "That's

26  
27           <sup>1</sup> See <http://www.1043myfm.com/features/get-the-iheartradio-app-240/>, <http://www.kfiam640.com/features/get-the-iheartradio-app-240/>,  
28    <http://www.iheart.com/live/real-923-181/>, <http://www.kiisfm.com/features/get-the-iheartradio-app-240/>,  
  <http://www.am570lasports.com/features/get-the-iheartradio-app-240/>, <http://www.patriot.la/features/get-the-iheartradio-app-240/>,  
  and <http://www.alt987fm.com/features/get-the-iheartradio-app-240/>, last accessed on May 29, 2015.

1 my Dear" and "You Ain't Ready" by The Flamingos; "Evening Sun" by Johnny  
2 Shine; "Love is a Pain," and "No Need of Your Crying," "I Had a Feeling," and  
3 "Meet Me Baby" by Rudy Green; "Nervous Wreck" and "No More Love" by  
4 Willie Nix; "Lonely Christmas," "Whistle My Love," "Baby Please," and "Hey  
5 Santa Claus" by Moonglows; "She's Gonna Ruin Me" and "I Can't Stand Being  
6 Away From You" by T-Bone Walker; "Just Keep Loving Her" by Little Walter;  
7 "Merry Lee," "Down Home," "Sweet and Lovely," and "Talk of the Town" by  
8 Howard McGhee; and "High and Lonesome" and "Roll and Rhumba" by Jimmy  
9 Reed. Many of these recordings and others are popular titles in the Rhythm &  
10 Blues genre of music.

11 13. Barbara Sheridan owns a master recording of pre-1972 sound  
12 recording "Golden Teardrops" by The Flamingos.

13 14. iHeartMedia Inc. has no license or other authority from Mr. or Mrs.  
14 Sheridan to reproduce, perform, stream or otherwise exploit their master  
15 recordings under California law. Since the master recordings of these pre-1972  
16 recordings are not subject to protection by the federal Copyright Act, they are  
17 governed exclusively by state law. California Civil Code §980(a)(2) confers the  
18 sole right to perform the master recordings of Mr. and Mrs. Sheridans' pre 1972  
19 recordings with them.

20 15. Mr. and Mrs. Sheridan believe based upon their investigation that  
21 iHeartMedia Inc. regularly streams one or more of the recordings listed above to  
22 California listeners and the "Golden Teardrops" recording and has done so  
23 repeatedly for the last several years.

24 16. iHeartRadioInc. has never paid Mr. or Mrs. Sheridan any royalties for  
25 this exploitation of their master recordings of these songs in violation of California  
26 law.  
27  
28

**CLASS ACTION ALLEGATIONS**

17. Mr. and Mrs. Sheridan brings this action on behalf of themselves and as representatives of a class of those whose rights in pre- 1972 recordings have been infringed/violated by iHeartMedia Inc.

18. The class is defined as: All owners of sound recordings of musical performances that were fixed/recorded before February 15, 1972 and were performed, streamed, distributed, reproduced or otherwise exploited by iHeartMedia Inc. in California.

19. Mr. and Mrs. Sheridan do not know the number of class members but believe they are too numerous to join in one action and that they are ascertainable from iHeartMedia's records.

20. Mr. and Mrs. Sheridan's claims are typical of the class and the Sheridans' interests are not adverse to theirs. Common questions of law and fact exist as to each class member's claims. They include (a) whether iHeartMedia Inc. performed, distributed, reproduced or otherwise exploited/violated each class member's rights in the pre 1972 recordings, (b) whether this exploitation/violation violates California law as detailed below, and (c) whether the class members have been damaged by the exploitation/violation.

21. A class action is superior to a plethora of individual actions by each class member because of the time and expense of litigation in proportion to the amounts of each class member's damages. Individual actions would also result in varying or inconsistent rulings by different courts.

22. Mr. Sheridan is an adequate class representative. Mrs. Sheridan is an adequate class representative. Their lawyers are experienced in class actions.

23. Accordingly, Mr. Sheridan and Mrs. Sheridan seek the certification of this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2), for injunctive relief, and (b)(3) for money damages.

**COUNT ONE- VIOLATION OF CALIFORNIA CIVIL**  
**CODE §980(a)(2) AND OTHER CALIFORNIA CAUSES OF ACTION**

24. Mr. and Mrs. Sheridan incorporate the above allegations as though fully set forth below.

25. This provision of California law vests with Mr. Sheridan and Mrs. Sheridan the exclusive ownership interests in their pre-1972 recordings including the right to publicly perform them.

26. iHeartMedia Inc. has repeatedly infringed/violated this statutory right by streaming these recordings to California listeners.

27. As a result, iHeartMedia Inc. has obtained revenue from the exploitation of these recordings that rightfully belongs to Mr. and Mrs. Sheridan and the class members.

28. iHeartMedia's violations are ongoing every day and will not stop without judicial intervention. Thus, Mr. and Mrs. Sheridan seek a preliminary and permanent injunction against iHeartMedia from further infringing/violations their rights by ordering it to stop performing and streaming his recordings to California listeners.

29. The same conduct also constitutes "misappropriation," a tort under California law.

30. The same conduct also constitutes the tort of "conversion" under California law because it is intentional and willful.

31. The same conduct also violates Business and Professions Code §17200.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against defendant as follows:

1. Thus, Mr. and Mrs. Sheridan demand the case be certified as a class action with them as class representatives and their lawyers as class counsel;

1           2.     That judgment be entered for Mr. and Mrs. Sheridan and the class for  
2     compensatory and punitive damages according to proof as well as pre-judgment  
3     interest, post-judgment interest, costs and reasonable attorney's fees;

4           3.     That disgorgement of gains and restitution be awarded pursuant to  
5     Business and Professions Code §17200 et seq.;

6           4.     That preliminary and permanent injunctions be entered against  
7     iHeartMedia Inc. and its employees and agents restraining it from further  
8     violations/infringement of class members' rights; and

9           5.     Such other relief as is necessary and proper.

10  
11     Dated: May 29, 2015

12  
13                     The Law Office of Justin Sobodash

14  
15                     By: /s/ Justin Sobodash  
16                         Justin Sobodash  
17                         Attorney for Plaintiffs  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: May 29, 2015

The Law Office of Justin Sobodash

By: /s/ Justin Sobodash

Justin Sobodash  
Attorney for Plaintiffs